

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

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|--|---|----------------------------|
| Vernell Howard, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Civil Action No.:4:06-1029 |
| |) | |
| Piggly Wiggly; Clarence Shelly, |) | |
| individually; Craig Hopkins, individually |) | |
| and in his official capacity; and the City |) | |
| of Marion Police Department, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

ORDER

Plaintiff Vernell Howard (“Howard”) filed the instant *pro se* action on March 31, 2006 against Defendants Piggly Wiggly; Clarence Shelly, individually; Craig Hopkins, individually and in his official capacity; and the City of Marion Police Department. (Doc. #1). Defendant City of Marion Police Department filed the pending motion to dismiss on May 25, 2006. (Doc. #12). Howard filed her response on June 30, 2006. (Doc. #20).

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed on February 15, 2007 by United States Magistrate Judge Thomas E. Rogers, III, to whom this case had previously been assigned. (Doc. #24). In the Report, Magistrate Judge Rogers recommends that Defendant City of Marion Police Department’s motion to dismiss be granted. Id. Howard filed objections to the Report on March 5, 2007. (Doc. #30).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party

may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted). In light of this standard, the Court has reviewed the Report. After careful review of the Report, the objections thereto, and the memoranda filed thus far in this case, the Court elects to accept the Report. (Doc. #24). Therefore, for the reasons articulated by the Magistrate Judge, it is **ORDERED** that Defendant City of Marion Police Department's motion to dismiss is **GRANTED**. (Doc. #12).

IT IS SO ORDERED.

S/ Terry L. Wooten

Terry L. Wooten
United States District Judge

March 15, 2007
Florence, South Carolina